## REMARKS

Claims 1-20 remain in this application and Claims 1, 7 and 11-20 have been amended. By these amendments, no new matter has been added.

The Examiner rejected Claims 1 and 11 under 35 U.S.C § 112, second paragraph, as being indefinite. The Examiner argued that the phrase "inappropriate use" is considered broad, it being uncertain what qualifies as inappropriate or how inappropriate use is determined. Applicant notes that broad claim language is acceptable and does not normally provide a basis for rejection under 35 U.S.C § 112. Applicant further believes that the phrase "inappropriate use" is sufficiently definite, however, in the interest of time, and in order to present the claims in better form for allowance, Claims 1 and 11 have been amended to remove the objected term. These rejections should therefore be withdrawn.

The present patent application is drawn to a method and system for operating a network server. According to the method and system, the transfer rate of files that disproportionately deplete server resources are slowed while the transfer rate for smaller files is essentially unchanged. The file transfer rate is controlled by adjusting the delay time between file transfer packets or by adjusting the number of information bits in the packet of information. The delay time and the number of information bits in the information packet are determined based on the characteristics of the file being transferred. For example, in one embodiment, the delay time is set based on the size of the file. The larger the file, the slower the file transfer rate. In another embodiment, the delay time is increased after each file transfer packet. Small files with few packets will experience very little delay while larger files with a greater number of packets will be subject to longer and longer delay times as each packet is transferred and the delay time is increased.

The Examiner rejected Claims 1-20 under 35 U.S.C § 103(a) as obvious over Kalkunte. These rejections are respectfully traversed. Kalkunte presents no bar to

patentability of the present invention.

Kalkunte is drawn to increasing network efficiency by reducing network collisions. Kalkunte discloses modifying delay times based only on network conditions. For example, in Kalkunte, the delay interval is set to zero if the network station has successfully transmitted a first data packet and the current data packet and if a number of access attempts for transmitting the current data packet equals one (3:35-39). Kalkunte also discloses where the delay interval is set to the interpacket gap (IPG) and one slot time if the detecting step detects a competing data packet (3:20-23). Also disclosed in Kalkunte is where the delay interval can be calculated as an integer multiple of a predetermined slot time randomly selected from a range of intervals calculated from an exponential number of access attempts (3:46-50). Kalkunte also describes, in the "description of the related art" the truncated binary exponential backoff (TBEB) algorithm where the delay interval is set according to other network and collision conditions. In every instance disclosed in Kalkunte, the delay interval is determined based on network conditions.

In contrast, the present patent application is drawn to selectively control file transfer rates in an effort to discourage use that the system considers undesirable, such as the transfer of large media files. The transfer rate of each requested file is controlled, either by controlling the delay period between each packet transferring step or by controlling the number of information bits in the packet of information being transferred. The transfer rate is determined based primarily on file size, and secondarily on other parameters such as file type. In one embodiment, the transfer rate is progressively slowed as each part of the file is transferred to or from the network.

Kalkunte teaches away from the present invention in that in the invention one objective is to decrease network throughput selectively. Every embodiment of Kalkunte teaches how to increase network throughput by reducing collisions using a variety of methods including collision mediation and queries between data packets to avoid multiple simultaneous data transmissions.

With respect to Claims 1 and 10, the Examiner argued that the steps are all known to occur in data transfer networks disclosed in Kalkunte. The present invention provides for "pausing for a defined delay period after said transferring step wherein the defined delay period is determined based on the characteristics of the file being transferred," as defined in Claim 1. Kalkunte discloses several ways to set the delay time, all of which are drawn to network conditions and are independent of the characteristics of the file being transferred. For example Kalkunte discloses a delay time of an "interpacket gap interval and one slot time." (3:13) Kalkunte also discloses setting the "delay interval in the network station to zero if the network station has successfully transmitted a first data packet . . . ." (3:35-37) Kalkunte also discloses where the "delay interval can be calculated as an integer multiple of a predetermined slot time randomly selected from a range of intervals calculated from a exponential number of the access attempts." (3:47-50) Kalkunte discloses several ways that the delay time can be calculated as shown above, but does not suggest or disclose a delay period "determined based on the characteristics of the file being transferred" as defined in Claim 1.

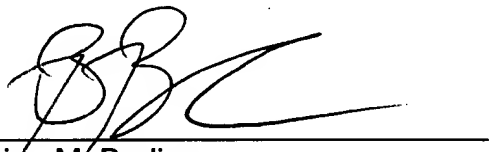
With respect to Claims 2 and 12, the Examiner argued that Kalkunte teaches increasing the delay time after each execution of the pausing step. Kalkunte discloses that the interval time can be calculated as an integer multiple of a predetermined slot time (3:46-50) and under other circumstances can reduce the delay interval to zero (3:35-36). The present invention "increas[es] the defined delay period after each execution of said pausing step," as defined in Claim 2. Nowhere does Kalkunte disclose or suggest increasing the delay interval with each execution of the pausing step.

Dependent Claims 3-10 and 13-20 contain numerous additional elements that are not disclosed or suggested by Kalkunte and are therefore independently allowable. In addition, each of the dependent claims is also allowable as depending from an allowable base claim.

In view of the foregoing, the Applicant respectfully submits that Claims 1-20 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. To the extent it would be helpful to placing this application in condition for allowance, the Applicant encourages the Examiner to contact the undersigned counsel and conduct a telephonic interview.

While the Applicant believes that no fees are due in connection with the filing of this paper, the Commissioner is authorized to charge any shortage in the fees, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



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